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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 UNITED STATES OF AMERICA,

NO. CR04-178-MJP

10 Plaintiff,

11 v.

SUMMARY REPORT OF
U.S. MAGISTRATE JUDGE AS
TO ALLEGED VIOLATIONS
OF SUPERVISED RELEASE

12 PHILLIP JAMES POWLUS,

13 Defendant.

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15 An evidentiary hearing on a petition for violation of supervised release was held before
16 the undersigned Magistrate Judge on December 18, 2009. The United States was represented
17 by Assistant United States Attorney Lisca Borichewski, and the defendant by Ralph Hurvitz.
18 The proceedings were digitally recorded.

19 The defendant had been charged and convicted of Conspiracy to Distribute Cocaine, in
20 violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B). On or about June 6, 2005, defendant
21 was sentenced by the Honorable Marsha J. Pechman to a term of sixty months in custody, to be
22 followed by five years of supervised release.

23 The conditions of supervised release included the requirements that the defendant
24 comply with all local, state, and federal laws, and with the standard conditions. Special
25 conditions imposed included, but were not limited to, substance abuse and mental health
26 programs; financial disclosure; search, four months RRC, abstain from alcohol use, and no

1 association with known gang members. On October 31, 2008, special conditions were
2 modified adding 60 days electronic monitoring in lieu of remaining RRC placement. On April
3 24, 2009, special conditions were again modified adding 120 days of electronic monitoring..

4 On June 30, 2008, Defendant's probation was revoked by Judge Pechman and
5 defendant was sentenced to four months in custody, to be followed by four months in a
6 halfway house. A fifty-four month term of supervised release was imposed.

7 In a Petition for Warrant or Summons, dated November 3, 2009, U.S. Probation Officer
8 Michael S. Larsen asserted the following violations by defendant of the conditions of his
9 supervised release:

10 (1) Using cocaine, on or about September 10, 2009, and October 9, 2009, in
11 violation of standard condition number 7.

12 (2) Failing to report for drug testing on October 21, 26, and November 2, 2009, in
13 violation of the special condition ordering him to participate in drug testing, as
14 instructed by the U.S. Probation Officer.

15 On December 11, 2009, defendant made his initial appearance. The defendant was
16 advised of the allegation and advised of his rights. On December 18, 2009, defendant appeared
17 for an evidentiary hearing on the alleged violations. Defendant admitted to violations 1 and 2.

18 I therefore recommend that the Court find the defendant to have violated the terms and
19 conditions of his supervised release as to violations 1 and 2, and that the Court conduct a
20 hearing limited to disposition. A disposition hearing on these violations has been set before the
21 Honorable Marsha J. Pechman on January 6, 2009 at 2:00 p.m.

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1 Pending a final determination by the Court, the defendant has been detained.

2 DATED this 18th day of December, 2009.

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4 JAMES P. DONOHUE
5 United States Magistrate Judge
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8 cc: District Judge: Honorable Marsha J. Pechman
9 AUSA: Lisca Borichewski
10 Defendant's attorney: Ralph Hurvitz
11 Probation officer: Michael S. Larsen
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